

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

United States of America,)	
)	
Plaintiff,)	ORDER DENYING MOTION FOR
)	RECONSIDERATION OF DETENTION ORDER
vs.)	
)	
Houston James Kirkaldie,)	Case No. 1:18-cr-199
)	
Defendant.)	

Following defendant's waiver in open court of his right to a detention hearing and preliminary hearing, the court issued an order on January 11, 2023, detaining him pending his revocation hearing on February 17, 2023. (Doc. Nos. 62, 63).

On January 24, 2023, Defendant filed a "Motion to Reconsider Detention Order." (Doc. No. 68). Advising that he secured a placement at MHA's Sober Living Housing in Bismarck, he requests to be released to an MHA employee for transport to MHA's Sober Living Housing with the understanding that he will participate in intensive outpatient treatment and attend weekly AA and NA meetings.

On January 27, 2023, the United States filed a response to Defendant's motion. (Doc. No. 69). It asserts that Defendant's history militates against his release. It further asserts that Defendant has not otherwise met his burden of proof and demonstrated by clear and convincing evidence that he is unlikely to flee and does not pose a danger to the community. Fed. R. Crim P. 32.1(a)(6). The court agrees.

Defendant waived his right to a preliminary hearing and in so doing has acknowledged that there is probable cause to believe that he violated his conditions of supervised release as alleged in

the current petition. The current petition aside, defendant's track record while on release is poor. As the United States has pointed out, he has a history violating this court's orders, failing to appear for the scheduled hearings, and of engaging in criminal conduct while on release. His ability to secure a placement in an unsecured facility and his promise to participate in treatment is not enough to satisfy his burden under Fed. R. Crim P. 32.1(a)(6). His motion (Doc. No. 68) is therefore **DENIED.**

IT IS SO ORDERED.

Dated this 30th day of January, 2023.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court